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COMMITTEE ON THE RIGHTS OF THE CHILD

Second session

SUMMARY RECORD OF THE 46th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 October 1992, at 10 a.m.

Chairman: Mrs. BADRAN

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Consideration of the draft report (continued)

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF THE DRAFT REPORT (continued)

CHAPTER III (continued)

Section C. System of documentation and information (continued)

Paragraphs 40 to 43

1. Paragraphs 40 to 43 were adopted.

Section D. Matters relating to the methods of work of the Committee

Paragraph 44

2. Mr. KOLOSOV proposed the deletion of the penultimate sentence of the paragraph, according to which members of the Committee, in order to guarantee their impartiality, had decided not to take part in the discussion on reports submitted by their own Governments. The Committee had not officially taken a decision to that effect. If it wished to do so, it must either include a formal decision in the report or consider incorporating the principle in the rules of procedure which was subject to revision. The second course seemed to be better. He personally did not wish to take part in the discussion on the report by the Russian Federation, but he would like to have the opportunity of making himself available to other members of the Committee for any consultations.

3. Mr. HAMMARBERG considered that members of the Committee not only had a duty to act with the utmost independence but they also had to demonstrate it. It was in order to protect their independence that members of the Committee had agreed among themselves that they would not participate in discussions on reports submitted by their own countries. Since a formal decision had not in fact been taken, the report could indicate that members of the Committee agreed not to take part in debates on the reports submitted by their own Governments.

4. Mrs. SANTOS PAIS said she agreed with Mr. Hammarberg's suggestion; the sentence contested by Mr. Kolosov stressed the fact that members of the Committee would not take part in discussions on reports submitted by their respective Governments, a position which they had affirmed on many occasions. Nevertheless, nothing in the sentence prevented a member of the Committee who was a national of the State whose report was being considered from assisting his colleagues in private, since he was naturally more aware than were other members of the real circumstances in the country in question. The non-participation rule, although important at the procedural level, did not seem to her to be in the nature of a fundamental principle worth incorporating in the rules of procedure. To be sure, a body established under another international instrument had adopted a formal decision on the question under discussion, but for the moment the Committee on the Rights of the Child had no reason to go so far.

5. Mr. KOLOSOV said that he could not accept such an interpretation from a legal point of view and considered that a rule must be established for the long term, bearing in mind all the different cases which could arise. The situation of members of the Committee during the consideration of the reports of the countries of which they were nationals must be clearly defined, since participation or non-participation in the debate by the expert concerned could have consequences, particularly in the case of a vote. In that connection he referred to rule 51 of the provisional rules of procedure. What would happen if, because the expert concerned did not take part, there was no quorum?

6. Mrs. BELEMBAOGO considered that the question under discussion, which related to the independence of members of the Committee, was not connected with rule 51 of the provisional rules of procedure but with rule 15. By virtue of the solemn declaration which they had made, members of the Committee were expected not to yield to any pressure that their Governments might try to exert upon them. That was all that was meant by the sentence contested by Mr. Kolosov, and it deserved to be retained, even if the wording might be softened.

7. Mrs. SANTOS PAIS endorsed Mrs. Belembaogo's comments. When it had drawn up its provisional rules of procedure, the Committee had wished to stress the idea of arriving at a consensus among the members and of a dialogue with States. In that connection she referred to footnote 1/ to rule 52 of the provisional rules of procedure, according to which "the members of the Committee expressed the view that its method of work should normally allow for attempts to reach decisions by consensus before voting ...". She hoped that, when reports submitted by States parties were considered, the Committee would therefore attempt to reach its conclusions by consensus. In extreme cases in which it would have to proceed to a vote, the fact that one member did not participate in the deliberations or in the vote in no way affected the quorum.

8. Mrs. EUFEMIO, noting that the report stated that members of the Committee recognized the need to distinguish between their personal or professional role on the one hand and their role as members of the Committee on the other, said that she would like a distinction to be made between active participation, of which voting could be considered to be an element, and passive participation. She was in favour of retaining the sentence under consideration, but would none the less propose that the word "decided" should be replaced by "agreed".

9. Mr. HAMMARBERG pointed out that members of the Committee had already agreed not to take part in the consideration of reports submitted by their respective Governments. If they did so, they ran the risk of being far too understanding and conciliatory to the Governments concerned or, conversely, too critical and too insistent on certain shortcomings they were only too aware of because they were all, in different degrees, engaged in activities in support of children in their own countries. It was important that the Committee's judgement should not be influenced by the personal feelings of its members. The rule agreed upon had the merit of protecting them, where necessary, from their own weaknesses and from their Governments, yet making the situation clear both to them and to States parties. In the circumstances, there was no need to worry about the question of a quorum, since that issue arose independently once several members of the Committee were absent. He therefore proposed that the sentence be retained in its original form.

10. Mr. GOMES DA COSTA, pointing out that he had not been present at the Committee's first session, said that he wished to draw attention to article 43, paragraph 2, of the Convention, which provided that "The Committee shall consist of 10 experts of high moral standing and of recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States parties from among their nationals and serve in their personal capacity ...", and to rule 15 of the provisional rules of procedure, which contained the solemn declaration which every member of the Committee had to make. He suggested that each expert should decide for himself, in accordance with his conscience, whether or not to participate in the consideration of the reports submitted by his own country. Thus each member of the Committee could, on the basis of his knowledge of the real situation in the country, determine whether it was advisable to intervene in the debate and would in that way affirm his independence. In the circumstances, a personal decision would be preferable to a collective decision.

11. Mr. HAMMARBERG said it was regrettable that the Committee had again to start considering the issue right from the beginning. It was important for the reports submitted by States parties to be considered with the same impartiality, and for that purpose members of the Committee should refrain from participating in the discussions on the reports of their own countries and should have faith in the integrity of the other members. He was therefore in favour of using the wording "agreed not to participate ...".

12. Mrs. MASON said that she would have liked not to take part in the discussion but she could not help deploring the considerable time which the Committee was wasting in considering a matter which had already been debated ad nauseam. In her opinion, the wording "reaffirmed that it was desirable that they should not participate ..." would better reflect the importance the Committee attached to the independence and integrity of its experts and would help to reduce any temptation that Governments might have to approach them.

13. Mrs. BELEMBAOGO said she, too, considered that the Committee was wasting time by reverting to a matter on which a consensus had already been reached. In order to prevent that from happening again, she suggested that, in general, members of the Committee should re-read the summary records before the beginning of each session and proposed that the meeting be suspended so that the Committee could agree on a final wording.

14. Mr. KOLOSOV said that, in accordance with rule 43 of the provisional rules of procedure, a motion to suspend the meeting had priority but first of all he had to return to the last point considered. Disagreeing with the views that had just been expressed, he said that no formal decision had been taken at the first session on non-participation by members of the Committee in debates on the reports submitted by their own countries. If the Committee intended to take such a decision, it must, again in accordance with the rules of procedure, be reflected as such in the report on the second session. However, the adoption of such a decision would raise other procedural problems: for example, when the report of Portugal was considered, it would be necessary to appoint another rapporteur in order to safeguard the impartiality of the debate. He therefore suggested that the question of

amending the rules of procedure be included in the agenda for the next session. He was in favour of the wording "reaffirmed that it was desirable that they should not participate ...".

15. The CHAIRMAN suggested that the meeting be suspended to enable members to reach agreement on the wording.

The meeting was suspended at 11.05 a.m. and resumed at 11.15 a.m.

16. The CHAIRMAN read out the agreed text for the penultimate sentence of paragraph 44, which was as follows: "In view of the relevance of this consideration, and in order to ensure the principle of impartiality, the members of the Committee reiterated the desirability of not participating in the Committee's discussions during the examination of the reports submitted by their own Governments.

17. Paragraph 44, as amended, was adopted.

Paragraph 45

18. Mrs. SANTOS PAIS proposed that the words "Following a decision taken by the Committee at its first session ..." be inserted at the beginning of the paragraph.

19. Paragraph 45, as amended, was adopted.

Paragraph 46

20. Paragraph 46 was adopted.

Paragraphs 47 and 48

21. Mr. KOLOSOV proposed that, in the first line of paragraph 47, after the word "meeting", the words "welcomed by the authorities of Ecuador" be inserted and that, in the second line of paragraph 48, after the word "gratitude", the words "to UNICEF and to the Government of Ecuador" be inserted.

22. Paragraphs 47 and 48, as amended, were adopted.

Paragraph 49

23. Paragraph 49 was adopted.

24. Mr. HAMMARBERG said that it was unrealistic to continue to consider the 30-page report in such a detailed manner. It was his understanding that on the previous day it had been agreed to leave it to the Rapporteur to take up the comments presented formally and to deal, during the meeting, only with questions of principle.

25. Mr. KOLOSOV said that such a procedure would not be without its disadvantages, for if members did not agree on any particular proposal, the

proposal would have to be re-examined at a meeting. The report was a very important document because it would be transmitted to the General Assembly, and in his view it ought to be considered step by step.

Paragraph 50

26. Mr. KOLOSOV pointed out that in the second line of the paragraph the word "for" should be replaced by the words "relative to", since the information concerned was intended for the Committee and not for States parties.

27. Mrs. EUFEMIO inquired whether national plans of action would be included in the country files.

28. The CHAIRMAN said that the national plan of action was a basic information document and should, therefore, be included in each country file, together with the documents received from specialized agencies and from UNICEF.

29. Mr. MILJETEIG-OLSSEN (United Nations Children's Fund) explained that the General Assembly had entrusted UNICEF with the task of putting together the national plans of action of all countries. UNICEF therefore had available, in New York, files containing the plans of action sent to the United Nations. Since many countries included their plans of action as annexes to their reports, it was possible that the Committee would receive them direct. In any case, UNICEF was ready to transmit copies of the documents concerned if necessary.

30. Paragraph 50, as amended by Mr. Kolosov, was adopted.

Paragraph 51

31. Paragraph 51 was adopted.

Paragraph 52

32. Mrs. SANTOS PAIS proposed that, to meet concerns expressed by Mr. Kolosov about the competence of representatives of States parties, rule 68 of the provisional rules of procedure should be mentioned at the beginning of paragraph 52.

33. Paragraph 52, as amended, was adopted.

Paragraph 53 to 59

34. Paragraphs 53 to 59 were adopted.

Section E. Preparatory activities relating to the World Conference on Human Rights

Paragraphs 60 and 61

35. Mrs. MASON proposed that, in the eleventh line of paragraph 61, the words "the inclusion of an item on the agenda of the World Conference which would specifically discuss the issues of the rights of the child ...", be included after the word "session".

36. It was so decided.

37. Paragraph 60 and paragraph 61, as amended, were adopted.

Section F. Contribution to the Fourth Meeting of persons chairing the human rights treaty bodies: question of reservations

Paragraphs 62 to 66

38. Mr. KOLOSOV proposed that whenever mention was made in paragraphs 62 to 66 of the word "reservations", it should be accompanied by the words, "and declarations", since it was declarations that helped to strengthen the standards established by the Convention and not, as stated in paragraph 64, reservations.

39. It was so decided.

40. Paragraphs 62 to 66, as amended, were adopted.

Section G. Urgent action procedure

41. Mr. KOLOSOV proposed that mention should be made, in section G, of the fact that States parties must be informed of the urgent action measures taken by the Committee or that, at least, a paragraph should be added in which it would be mentioned that the Committee would request the opinion of a legal expert or the depositary of the Convention regarding that procedure.

42. Mr. HAMMARBERG said he disagreed with Mr. Kolosov's proposal. The Committee was only discussing the subject, which would have to be continued at the next session. It therefore seemed unnecessary to be too precise about things.

43. Section G, as a whole, was adopted.

Section H. Future studies

44. Section H, as a whole, was adopted.

Section I. General discussion on children in armed conflicts

Paragraphs 67 to 88

45. Paragraphs 67 to 88 were adopted.

46. After a discussion on the form of the report, in which Mrs. SANTOS PAIS, Mr. KOLOSOV and Mr. HAMMARBERG took part, the CHAIRMAN proposed that paragraphs 89 to 93 be regrouped under a single heading entitled "(e) Follow-up to the general discussion".

47. It was so decided.

Paragraph 89

48. Paragraph 89 was adopted.

Paragraph 90

49. Mrs. SANTOS PAIS proposed that, for the sake of clarity, the words "of children in armed conflicts" be added after the word "question" in the third line.

50. Paragraph 90, as amended, was adopted.

Paragraph 91

51. Mrs. EUFEMIO asked what the special study mentioned in paragraph 91 would deal with.

52. Mr. MILJETEIG-OLSSEN (United Nations Children's Fund) said that the Committee could request UNICEF to prepare such a study. Instead of using the rather vague term "special study", it might be better to use the words "special studies on certain questions affecting children in armed conflicts".

53. Mr. HAMMARBERG, supported by Mrs. EUFEMIO, proposed that the words "a special study" be replaced by the words "studies on certain aspects of the problem".

54. It was so decided.

55. Paragraph 91, as amended, was adopted.

Paragraphs 92 and 93

56. Paragraphs 92 and 93 were adopted.

57. Mrs. SANTOS PAIS, speaking in her capacity as Rapporteur, explained that the report must also deal with the general debate on economic exploitation, since the Committee had decided to discuss it the following year, as well as with the Committee's next meetings.

58. Mr. KOLOSOV said it should be made clear which members of the Committee would form part of the two working groups mentioned in the report.

59. Mrs. EUFEMIO asked about the duration of the mandates of the two working groups.

60. The CHAIRMAN suggested that the answers to those questions should be given at the next pre-sessional meeting.

61. It was so decided.

Chapter I. Conclusions and recommendations adopted by the Committee on the Rights of the Child

Decision No. 1

62. Decision No. 1, entitled "Organization of informal regional meetings", was adopted.

Decision No. 2

63. Mrs. SANTOS PAIS proposed that, out of concern for truth, the beginning of operative paragraph 3 reading "Reminds the Secretariat that it had requested it to organize country files ..." should be replaced by "Also requests the Secretariat to continue to organize country files ...".

64. Decision No. 2, entitled "Sources of information", as amended, was adopted.

Decision No. 3

65. Decision No. 3, entitled "Public information activities", was adopted.

Decision No. 4

66. Mrs. SANTOS PAIS said that in the title the word "organs" should be replaced by the word "bodies".

67. Decision No. 4, entitled "Relations with other United Nations bodies and treaty bodies", as amended, was adopted.

68. Mrs. SANTOS PAIS proposed that the Committee include in the report a fifth decision concerning the Fourth Meeting of persons chairing human rights treaty bodies. She read out a proposed text presenting the conclusions of the Committee on the Rights of the Child, as well as the methods of work which it had adopted. She suggested that, if the text was acceptable to the Committee, the Chairman should transmit it to the Chairpersons of the other treaty bodies.

69. Decision No. 5, entitled "Fourth Meeting of persons chairing the human rights treaty bodies", was adopted.

Proposed draft provisional agenda for the third session

70. Mrs. SANTOS PAIS read out the following draft provisional agenda for the Committee's third session:

1. Adoption of the agenda

2. Information by the secretariat on the action taken pursuant to decisions adopted by the Committee

3. Submission of reports by States parties in accordance with article 44 of the Convention

4. Report on the fourth meeting of persons chairing the human rights bodies

5. Preparatory activities relating to the World Conference on Human Rights

6. Report on the Seminar on indicators

7. Report on the follow-up to be given to the general discussion on "children in armed conflicts"

8. Methods of work of the Committee

9. System of documentation and information

10. Future studies

11. Consideration of State party reports

12. Future meetings

13. Other matters

14. Adoption of the report

71. The CHAIRMAN said that the Committee had taken note of the proposal made by Mrs. Santos Pais and thanked all members, representatives of United Nations bodies, representatives of non-governmental organizations and members of the Secretariat for their collaboration.

The meeting rose at 12.45 p.m.